



Docket No. JBP-462

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Charles E. Clum
William E. McGowan

Serial No. : 09/360,805

Art Unit: 1614

Filed : July 23, 1999

Examiner: Hollinden G.

For : RETINOID COMPOSITIONS CONTAINING A WATER
SOLUBLE ANTIOXIDANT AND A CHELATOR

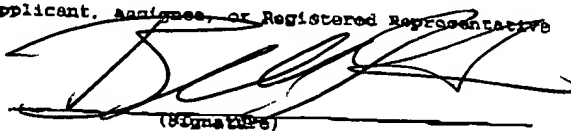
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United States Postal Service as first class mail in an envelope addressed
to: Assistant Commissioner for Patents, Washington, D.C. 20231 on

May 19, 2000

(Date)

William E. McGowan

Name of applicant, assignee, or Registered Representative


(Signature)

May 19, 2000

(Date of Signature)

BOX REISSUE
Assistant Commissioner for Patents
Washington, D.C. 20231

REISSUE PATENT APPLICATION
DECLARATION OF CHARLES E. CLUM, CO-INVENTOR

The Applicant named below hereby declares as follows:

1. My residence, mailing address, and country of citizenship given below are true and correct.
2. I believe I am the original, first and joint inventor of the invention claimed in the attached patent

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application specification for which a reissue of United States Patent No. 5,652,263 is sought. I have reviewed and understood the attached specification, including its claims.

3. I verily believe that United States Patent No. 5,652,263 is partly inoperative by reason of my claiming less than I had a right to claim in the patent. The patent claims are insufficient in that the patent only claims the composition-of-matter of a skin care composition comprising a water-in-oil emulsion and a retinoid. The invention, however, encompasses broader subject matter, in that the invention also relates to methods of manufacturing emulsion skin care compositions comprising an oil phase, a water phase, and a retinoid wherein certain steps of the method are carried out in the presence of argon.

Furthermore, the issued claims are incomplete in that they do not fully cover all of the possible embodiments of the invention, for example, a method of manufacturing (as described above) having one or more of the following method features (m): (m1) the step of mixing the oil and liquid phases is carried out in the presence of argon; (m2) the cooling step following the mixing of the oil and water phases is carried out in the presence of argon; (m3) the retinoid is retinol; (m4) the retinoid is added to the emulsion after the oil and water phases are mixed; (m5) the retinoid is added to the oil phase prior to mixing; (m6) the emulsion is a water-in-oil emulsion; (m7) the composition retains at least about 80%, by weight, of the retinoid after 13 weeks of storage at 40°C; (m8) the retinoid is added to the emulsion in the absence of ultraviolet light; (m9) the emulsion is added to containers in the presence of argon; (m10) the composition comprises a chelating agent; (m11) the composition comprises a water-soluble anti-oxidant; (m12) the composition comprises an oil-soluble anti-oxidant; (m13) the composition has a pH of between about 4-7; (m14) oil phase and the water phase are each heated until all of the ingredients of the phases are substantially liquefied; (m15) wherein the water phase is heated to above about 75° C, the oil phase is heated to above about 80° C, and the retinoid is added after the emulsion has cooled to below about 53° C; and (m16) the container is a capped tube. New method claims 16 - 63 recite the inventive subject matter more broadly and completely, as described in greater detail herein.

4. The present invention that matured into U.S. Patent No. 5,652,263 was filed on July 2, 1996. When such

application was prepared and during subsequent prosecution, I did not realize that method claims could be extended to cover the subject matter discussed in item 3 above. The error was an oversight that arose without deceptive intention. As a result of my review of the issued patent, I determined that its claims are overly narrow in view of the full scope of the invention as described in the application and fail to cover various embodiments of the invention that have widespread commercial use.

5. I believe that the present reissue application overcomes the defect by adding method claims 16-63. Claims 16-63 recite subject matter that is not covered and we inadvertently omitted from the claims of the patent. The scope of claims 16-63 differs from that of any of the existing patent claims in that it encompasses methods of manufacturing an emulsion skin care composition comprising an oil phase, a water phase, and a retinoid.

Further, the scope of other claims differs from that of any of the existing patent claims in that it encompasses methods comprising the skin care composition (as described above) having one or more additional method features (m1 - m16, paragraph 3 above), as set forth below.

<u>Feature</u>	<u>Claim(s)</u>
m1	16-36, 39-41, 43, 45, 47, 49, 51, 53, 56, 58, 60, 61 & 63
m2	37-63
m3	17-36 & 38-63
m4	18, 21, 23, 25, 27, 29, 31, 33, 34, 36, 40, 43, 45, 47, 49, 51, 53, 56, 58, 60, 61 & 63
m5	19 & 41
m6	20, 21, 23, 25, 27, 29, 31, 33, 34, 36, 42, 43, 45, 47, 49, 51, 53, 56, 58, 60, 61 & 63
m7	22, 23, 25, 27, 29, 31, 33, 34, 36, 44, 45, 47, 49, 51, 53, 56, 58, 60, 61 & 63
m8	24, 25, 27, 29, 31, 33, 34, 36, 46, 47, 49, 51, 53, 56, 58, 60, 61 & 63
m9	26, 27, 52 & 53
m10	28, 29, 34, 55, 56 & 61
m11	30, 31, 57 & 58
m12	32-34 & 59-61
m13	35, 36, 62 & 63
m14	48 & 49
m15	50 & 51
m16	54

I believe new method claims 16-63 are supported by the patent specification and recite the invention subject matter more broadly and completely than the patent claims.

6. I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application. I understand that information is material where there is a substantial likelihood that a reasonable patent examiner would consider it important in deciding whether to allow the attached application to issue as a patent.

I further declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: May 19, 2000

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Jonas C.T. Wang

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BOX REISSUE
Assistant Commissioner for Patents
Washington, D.C. 20231

REISSUE PATENT APPLICATION
DECLARATION OF JONAS C.T. WANG, CO-INVENTOR

The Applicant named below hereby declares as follows:

1. My residence, mailing address, and country of citizenship given below are true and correct.

2. I believe I am the original, first and joint inventor of the invention claimed in the attached patent application specification for which a reissue of United States Patent No. 5,652,263 is sought. I have reviewed and understood the attached specification, including its claims.

3. I verily believe that United States Patent No. 5,652,263 is partly inoperative by reason of my claiming less than I had a right to claim in the patent. The patent claims are insufficient in that the patent only claims the composition-of-matter of a skin care composition comprising a water-in-oil emulsion and a retinoid. The invention, however, encompasses broader subject matter, in that the invention also relates to methods of manufacturing emulsion skin care compositions comprising an oil phase, a water phase, and a retinoid wherein certain steps of the method are carried out in the presence of argon.

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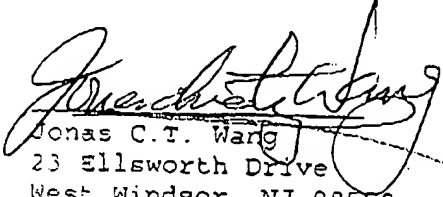
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Date:

May 19th, 2000


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** TOTAL PAGE.05 **